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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. **2011-573**

11 **MEGAN EILEEN-KENNE DAY, AKA**
12 **MEGAN DAY, AKA MEGAN EILEEN-**
13 **KENNEDY DAY**
14 **3169 S. Leland Street**
San Pedro, CA 90731
Registered Nurse License No. 677841

ACCUSATION

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about April 17, 2006, the Board of Registered Nursing issued Registered Nurse
23 License Number 677841 to Megan Eileen-Kenne Day, aka Megan Day, aka Megan Eileen-
24 Kennedy Day ("Respondent"). The Registered Nurse License was in full force and effect at all
25 ~~times relevant to the charges brought herein and will expire on March 31, 2012, unless renewed.~~

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing ("Board"), under
28 the authority of the following laws. All section references are to the Business and Professions

Code ("Code") unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 490 of the Code provides:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

5. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2761 of the Code provides, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

....

~~(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."~~

7. Section 2762 of the Code provides, in pertinent part,

1 “In addition to other acts constituting unprofessional conduct within the meaning of this
2 chapter it is unprofessional conduct for a person licensed under this chapter to do any of the
3 following:

4 ...

5 (b) Use any controlled substance as defined in Division 10 (commencing with Section
6 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
7 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
8 himself or herself, any other person, or the public or to the extent that such use impairs his or her
9 ability to conduct with safety to the public the practice authorized by his or her license.

10 (c) Be convicted of a criminal offense involving the prescription, consumption, or self-
11 administration of any of the substances described in subdivisions (a) and (b) of this section, or the
12 possession of, or falsification of a record pertaining to, the substances described in subdivision (a)
13 of this section, in which event the record of the conviction is conclusive evidence thereof.

14 (d) Be committed or confined by a court of competent jurisdiction for intemperate use of or
15 addiction to the use of any of the substances described in subdivisions (a) and (b) of this section,
16 in which event the court order of commitment or confinement is prima facie evidence of such
17 commitment or confinement.”

18 8. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
19 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
20 licensee or to render a decision imposing discipline on the license.

21 REGULATORY PROVISIONS

22 9. California Code of Regulations, title 16, section 1444, provides:

23 “A conviction or act shall be considered to be substantially related to the qualifications,
24 functions or duties of a registered nurse if to a substantial degree it evidences the present or
25 ~~potential unfitness of a registered nurse to practice in a manner consistent with the public health,~~
26 safety, or welfare.

27 Such convictions or acts shall include but not be limited to the following:

28 (a) Assaultive or abusive conduct including, but not limited to, those violations listed in

subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.”

COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially-Related Crime)

11. Respondent is subject to disciplinary action under section 2761, subdivision (f) and section 490 of the Code, as defined in California Code of Regulations, title 16, section 1444, in that she was convicted of a crime substantially related to the qualifications, functions or duties of a registered nurse as follows:

12. On or about May 28, 2010 in the criminal matter entitled *People v. Megan Day*, Los Angeles County Superior Court Case No. 0LT03834, Respondent pled no contest to a violation of California Vehicle Code section 23152 (b), driving with a blood alcohol level at .08% or above, a misdemeanor. Respondent was placed on informal probation for three years Further, Respondent was ordered to attend a first-offender alcohol education course, serve 13 days in the Los Angeles County Jail, and pay fines. The circumstances surrounding the conviction are that on or about March 22, 2010 at 3:00 a.m., Respondent crashed her vehicle into a wooden fence while driving with a blood alcohol level of .20%.

SECOND CAUSE FOR DISCIPLINE

(Dangerous Use of Alcohol)

13. Respondent is subject to disciplinary action under section 2762, subdivision (b) of the Code, in that Respondent used alcohol to an extent or in a manner dangerous or injurious to

1 herself, and the public. Complainant refers to, and by this reference incorporates, the allegations
2 set forth above in paragraph 12, as though set forth fully.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Conviction for Alcohol Related Offense)**

5 14. Respondent is subject to disciplinary action under section 2762, subdivision (c) of the
6 Code, in that Respondent was convicted of a crime involving the use of alcohol. Complainant
7 refers to, and by this reference incorporates, the allegations set forth above in paragraph 12, as
8 though set forth fully.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Confined by Court for Use of Alcohol)**

11 15. Respondent is subject to disciplinary action under section 2762, subdivision (d) of the
12 Code, in that Respondent was confined by a court of law for the intemperate use of alcohol.
13 Complainant refers to, and by this reference incorporates, the allegations set forth above in
14 paragraph 12, as though set forth fully.

15 **PRAAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the Board of Registered Nursing issue a decision:

- 18 1. Revoking or suspending Registered Nurse License Number 677841, issued to Megan
19 Eileen-Kenne Day, aka Megan Day, aka Megan Eileen-Kennedy Day;
20 2. Ordering Megan Eileen-Kenne Day, aka Megan Day, aka Megan Eileen-Kennedy
21 Day to pay the Board of Registered Nursing the reasonable costs of the investigation and
22 enforcement of this case, pursuant to Business and Professions Code section 125.3;
23 3. Taking such other and further action as deemed necessary and proper.
24

25
26 DATED: 12/23/10

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing

Department of Consumer Affairs
State of California
Complainant

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